

BEFORE THE
BOARD OF REGISTERED NURSING
DEPARTMENT OF CONSUMER AFFAIRS
STATE OF CALIFORNIA

In the Matter of the Statement of Issues
Against:

MARY SUNYOUNG CHUNG
67 Costero Aisle
Irvine, CA 92614

Registered Nurse License No. 721908

Respondent

Case No. 2010-57

OAH No. 2009090403

DECISION AND ORDER

The attached Stipulated Settlement and Disciplinary Order is hereby adopted by the Board of Registered Nursing, Department of Consumer Affairs, as its Decision in the above entitled matter.

This Decision shall become effective on **June 21, 2010.**

IT IS SO ORDERED **May 19, 2010.**



President
Board of Registered Nursing
Department of Consumer Affairs
State of California

1 EDMUND G. BROWN JR.
Attorney General of California
2 LINDA K. SCHNEIDER
Supervising Deputy Attorney General
3 LORETTA A. WEST
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Attorneys for Complainant

8
9 **BEFORE THE**
10 **BOARD OF REGISTERED NURSING**
11 **DEPARTMENT OF CONSUMER AFFAIRS**
12 **STATE OF CALIFORNIA**

13 In the Matter of the Accusation Against:

14 **MARY SUNYOUNG CHUNG**
15 **67 Costero Aisle**
Irvine, CA 92614

16 **Registered Nurse License No. 721908**

17 Respondent.

Case No. 2010 57

OAH No. 2009090403

18
19 **STIPULATED SETTLEMENT AND**
20 **DISCIPLINARY ORDER**

21 In the interest of a prompt and speedy settlement of this matter, consistent with the public
22 interest and the responsibility of the Board of Registered Nursing of the Department of Consumer
23 Affairs, the parties hereby agree to the following Stipulated Settlement and Disciplinary Order
24 which will be submitted to the Board for approval and adoption as the final disposition of the
25 Accusation.

26 **PARTIES**

27 1. Louise R. Bailey, M.Ed., RN (Complainant) is the Interim Executive Officer of the
28 Board of Registered Nursing. She brought this action solely in her official capacity and is
represented in this matter by Edmund G. Brown Jr., Attorney General of the State of California,
by Loretta A. West, Deputy Attorney General.

2. Respondent Mary Sunyoung Chung is represented in this proceeding by the Law Offices of Michael J. Khouri, including attorneys Michael J. Khouri, Esq., and Jami D. Berdelis, Esq., whose address is 4010 Barranca Parkway, Suite 265, Irvine, CA 92604.

3. On or about March 3, 2008, the Board of Registered Nursing issued Registered Nurse License No. 721908 to Mary Sunyoung Chung (Respondent). The Registered Nurse License was in full force and effect at all times relevant to the charges brought in Accusation No. 2010 57 and will expire on May 31, 2011, unless renewed.

JURISDICTION

4. On July 31, 2009, Accusation No. 2010 57 was filed before the Board of Registered Nursing (Board), Department of Consumer Affairs, and is currently pending against Respondent. The Accusation and all other statutorily required documents were properly served on Respondent on August 14, 2009. Respondent timely filed her Notice of Defense contesting the Accusation. A copy of Accusation No. 2010 57 is attached as exhibit A and incorporated herein by reference.

ADVISEMENT AND WAIVERS

5. Respondent has carefully read, fully discussed with counsel, and understands the charges and allegations in Accusation No. 2010 57. Respondent has also carefully read, fully discussed with counsel, and understands the effects of this Stipulated Settlement and Disciplinary Order.

6. Respondent is fully aware of her legal rights in this matter, including the right to a hearing on the charges and allegations in the Accusation; the right to confront and cross-examine the witnesses against her; the right to present evidence and to testify on her own behalf; the right to the issuance of subpoenas to compel the attendance of witnesses and the production of documents; the right to reconsideration and court review of an adverse decision; and all other rights accorded by the California Administrative Procedure Act and other applicable laws.

7. Respondent voluntarily, knowingly, and intelligently waives and gives up each and every right set forth above.

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1 CULPABILITY

2 8. Respondent admits the truth of each and every charge and allegation in Accusation
3 No. 2010 57.

4 9. Respondent agrees that her Registered Nurse License is subject to discipline and she
5 agrees to be bound by the Board of Registered Nursing's imposition of discipline as set forth in
6 the Disciplinary Order below.

7 RESERVATION

8 10. The admissions made by Respondent herein are only for the purposes of this
9 proceeding, or any other proceedings in which the Board of Registered Nursing or other
10 professional licensing agency is involved, and shall not be admissible in any other criminal or
11 civil proceeding.

12 CONTINGENCY

13 11. This stipulation shall be subject to approval by the Board of Registered Nursing.
14 Respondent understands and agrees that counsel for Complainant and the staff of the Board of
15 Registered Nursing may communicate directly with the Board regarding this stipulation and
16 settlement, without notice to or participation by Respondent or her counsel. By signing the
17 stipulation, Respondent understands and agrees that she may not withdraw her agreement or seek
18 to rescind the stipulation prior to the time the Board considers and acts upon it. If the Board fails
19 to adopt this stipulation as its Decision and Order, the Stipulated Settlement and Disciplinary
20 Order shall be of no force or effect, except for this paragraph, it shall be inadmissible in any legal
21 action between the parties, and the Board shall not be disqualified from further action by having
22 considered this matter.

23 12. The parties understand and agree that facsimile copies of this Stipulated Settlement
24 and Disciplinary Order, including facsimile signatures thereto, shall have the same force and
25 effect as the originals.

26 13. This Stipulated Settlement and Disciplinary Order is intended by the parties to be an
27 integrated writing representing the complete, final, and exclusive embodiment of their agreement.
28 It supersedes any and all prior or contemporaneous agreements, understandings, discussions,

1 negotiations, and commitments (written or oral). This Stipulated Settlement and Disciplinary
2 Order may not be altered, amended, modified, supplemented, or otherwise changed except by a
3 writing executed by an authorized representative of each of the parties.

4 14. In consideration of the foregoing admissions and stipulations, the parties agree that
5 the Board may, without further notice or formal proceeding, issue and enter the following
6 Disciplinary Order:

7 **DISCIPLINARY ORDER**

8 IT IS HEREBY ORDERED that Registered Nurse License No. 721908 issued to Mary
9 Sunyoung Chung is revoked. However, the revocation is stayed and Respondent is placed on
10 probation for three (3) years on the following terms and conditions.

11 **Severability Clause.** Each condition of probation contained herein is a separate and
12 distinct condition. If any condition of this Order, or any application thereof, is declared
13 unenforceable in whole, in part, or to any extent, the remainder of this Order, and all other
14 applications thereof, shall not be affected. Each condition of this Order shall separately be valid
15 and enforceable to the fullest extent permitted by law.

16 1. **Obey All Laws.** Respondent shall obey all federal, state and local laws.
17 A full and detailed account of any and all violations of law shall be reported by Respondent to the
18 Board in writing within seventy-two (72) hours of occurrence. To permit monitoring of
19 compliance with this condition, Respondent shall submit completed fingerprint forms and
20 fingerprint fees within 45 days of the effective date of the decision, unless previously submitted
21 as part of the licensure application process.

22 **Criminal Court Orders:** If Respondent is under criminal court orders, including
23 probation or parole, and the order is violated, this shall be deemed a violation of these probation
24 conditions, and may result in the filing of an accusation and/or petition to revoke probation.

25 2. **Comply with the Board's Probation Program.** Respondent shall fully
26 comply with the conditions of the Probation Program established by the Board and cooperate with
27 representatives of the Board in its monitoring and investigation of the Respondent's compliance
28 with the Board's Probation Program. Respondent shall inform the Board in writing within no

1 more than 15 days of any address change and shall at all times maintain an active, current license
2 status with the Board, including during any period of suspension.

3 Upon successful completion of probation, Respondent's license shall be fully restored.

4 3. **Report in Person.** Respondent, during the period of probation, shall
5 appear in person at interviews/meetings as directed by the Board or its designated representatives.

6 4. **Residency, Practice, or Licensure Outside of State.** Periods of residency
7 or practice as a registered nurse outside of California shall not apply toward a reduction of this
8 probation time period. Respondent's probation is tolled, if and when she resides outside of
9 California. Respondent must provide written notice to the Board within 15 days of any change of
10 residency or practice outside the state, and within 30 days prior to re-establishing residency or
11 returning to practice in this state.

12 Respondent shall provide a list of all states and territories where she has ever been licensed
13 as a registered nurse, vocational nurse, or practical nurse. Respondent shall further provide
14 information regarding the status of each license and any changes in such license status during the
15 term of probation. Respondent shall inform the Board if she applies for or obtains a new nursing
16 license during the term of probation.

17 5. **Submit Written Reports.** Respondent, during the period of probation,
18 shall submit or cause to be submitted such written reports/declarations and verification of actions
19 under penalty of perjury, as required by the Board. These reports/declarations shall contain
20 statements relative to Respondent's compliance with all the conditions of the Board's Probation
21 Program. Respondent shall immediately execute all release of information forms as may be
22 required by the Board or its representatives.

23 Respondent shall provide a copy of this Decision to the nursing regulatory agency in every
24 state and territory in which she has a registered nurse license.

25 6. **Function as a Registered Nurse.** Respondent, during the period of
26 probation, shall engage in the practice of registered nursing in California for a minimum of 24
27 hours per week for 6 consecutive months or as determined by the Board.

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1 For purposes of compliance with the section, "engage in the practice of registered nursing"
2 may include, when approved by the Board, volunteer work as a registered nurse, or work in any
3 non-direct patient care position that requires licensure as a registered nurse.

4 The Board may require that advanced practice nurses engage in advanced practice nursing
5 for a minimum of 24 hours per week for 6 consecutive months or as determined by the Board.

6 If Respondent has not complied with this condition during the probationary term, and
7 Respondent has presented sufficient documentation of her good faith efforts to comply with this
8 condition, and if no other conditions have been violated, the Board, in its discretion, may grant an
9 extension of Respondent's probation period up to one year without further hearing in order to
10 comply with this condition. During the one year extension, all original conditions of probation
11 shall apply.

12 **7. Employment Approval and Reporting Requirements.** Respondent shall
13 obtain prior approval from the Board before commencing or continuing any employment, paid or
14 voluntary, as a registered nurse. Respondent shall cause to be submitted to the Board all
15 performance evaluations and other employment related reports as a registered nurse upon request
16 of the Board.

17 Respondent shall provide a copy of this Decision to her employer and immediate
18 supervisors prior to commencement of any nursing or other health care related employment.

19 In addition to the above, Respondent shall notify the Board in writing within seventy-two
20 (72) hours after she obtains any nursing or other health care related employment. Respondent
21 shall notify the Board in writing within seventy-two (72) hours after she is terminated or
22 separated, regardless of cause, from any nursing, or other health care related employment with a
23 full explanation of the circumstances surrounding the termination or separation.

24 **8. Supervision.** Respondent shall obtain prior approval from the Board
25 regarding Respondent's level of supervision and/or collaboration before commencing or
26 continuing any employment as a registered nurse, or education and training that includes patient
27 care.

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1 Respondent shall practice only under the direct supervision of a registered nurse in good
2 standing (no current discipline) with the Board of Registered Nursing, unless alternative methods
3 of supervision and/or collaboration (e.g., with an advanced practice nurse or physician) are
4 approved.

5 Respondent's level of supervision and/or collaboration may include, but is not limited to the
6 following:

7 (a) Maximum - The individual providing supervision and/or collaboration is present in
8 the patient care area or in any other work setting at all times.

9 (b) Moderate - The individual providing supervision and/or collaboration is in the patient
10 care unit or in any other work setting at least half the hours that Respondent works.

11 (c) Minimum - The individual providing supervision and/or collaboration has person-to-
12 person communication with Respondent at least twice during each shift worked.

13 (d) Home Health Care - If Respondent is approved to work in the home health care
14 setting, the individual providing supervision and/or collaboration shall have person-to-person
15 communication with Respondent as required by the Board each work day. Respondent shall
16 maintain telephone or other telecommunication contact with the individual providing supervision
17 and/or collaboration as required by the Board during each work day. The individual providing
18 supervision and/or collaboration shall conduct, as required by the Board, periodic, on-site visits to
19 patients' homes visited by Respondent with or without Respondent present.

20 9. **Employment Limitations.** Respondent shall not work for a nurse's
21 registry, in any private duty position as a registered nurse, a temporary nurse placement agency, a
22 traveling nurse, or for an in-house nursing pool.

23 Respondent shall not work for a licensed home health agency as a visiting nurse unless the
24 registered nursing supervision and other protections for home visits have been approved by the
25 Board. Respondent shall not work in any other registered nursing occupation where home visits
26 are required.

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1 Respondent shall not work in any health care setting as a supervisor of registered nurses.
2 The Board may additionally restrict Respondent from supervising licensed vocational nurses
3 and/or unlicensed assistive personnel on a case-by-case basis.

4 Respondent shall not work as a faculty member in an approved school of nursing or as an
5 instructor in a Board approved continuing education program.

6 Respondent shall work only on a regularly assigned, identified and predetermined
7 worksite(s) and shall not work in a float capacity.

8 If Respondent is working or intends to work in excess of 40 hours per week, the Board may
9 request documentation to determine whether there should be restrictions on the hours of work.

10 10. **Complete a Nursing Course(s).** Respondent, at her own expense, shall
11 enroll and successfully complete a course(s) relevant to the practice of registered nursing no later
12 than six months prior to the end of her probationary term.

13 Respondent shall obtain prior approval from the Board before enrolling in the course(s).
14 Respondent shall submit to the Board the original transcripts or certificates of completion for the
15 above required course(s). The Board shall return the original documents to Respondent after
16 photocopying them for its records.

17 11. **Cost Recovery.** Respondent shall pay to the Board costs associated with
18 its investigation and enforcement pursuant to Business and Professions Code section 125.3 in the
19 amount of \$4,495.00 (four thousand four hundred ninety five dollars). Respondent shall be
20 permitted to pay these costs in a payment plan approved by the Board, with payments to be
21 completed no later than three months prior to the end of the probation term.

22 If Respondent has not complied with this condition during the probationary term, and
23 Respondent has presented sufficient documentation of her good faith efforts to comply with this
24 condition, and if no other conditions have been violated, the Board, in its discretion, may grant an
25 extension of Respondent's probation period up to one year without further hearing in order to
26 comply with this condition. During the one year extension, all original conditions of probation
27 will apply.

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1 12. **Violation of Probation.** If Respondent violates the conditions of her
2 probation, the Board after giving Respondent notice and an opportunity to be heard, may set aside
3 the stay order and impose the stayed discipline (revocation) of Respondent's license.

4 If during the period of probation, an accusation or petition to revoke probation has been
5 filed against Respondent's license or the Attorney General's Office has been requested to prepare
6 an accusation or petition to revoke probation against Respondent's license, the probationary
7 period shall automatically be extended and shall not expire until the accusation or petition has
8 been acted upon by the Board.

9 13. **License Surrender.** During Respondent's term of probation, if she ceases
10 practicing due to retirement, health reasons or is otherwise unable to satisfy the conditions of
11 probation, Respondent may surrender her license to the Board. The Board reserves the right to
12 evaluate Respondent's request and to exercise its discretion whether to grant the request, or to
13 take any other action deemed appropriate and reasonable under the circumstances, without further
14 hearing. Upon formal acceptance of the tendered license and wall certificate, Respondent will no
15 longer be subject to the conditions of probation.

16 Surrender of Respondent's license shall be considered a disciplinary action and shall
17 become a part of Respondent's license history with the Board. A registered nurse whose license
18 has been surrendered may petition the Board for reinstatement no sooner than the following
19 minimum periods from the effective date of the disciplinary decision:

20 (1) Two years for reinstatement of a license that was surrendered for any reason other
21 than a mental or physical illness; or

22 (2) One year for a license surrendered for a mental or physical illness.

23 14. **Physical Examination.** Within 45 days of the effective date of this
24 Decision, Respondent, at her expense, shall have a licensed physician, nurse practitioner, or
25 physician assistant, who is approved by the Board before the assessment is performed, submit an
26 assessment of the Respondent's physical condition and capability to perform the duties of a
27 registered nurse. Such an assessment shall be submitted in a format acceptable to the Board. If
28 medically determined, a recommended treatment program will be instituted and followed by the

Respondent with the physician, nurse practitioner, or physician assistant providing written reports to the Board on forms provided by the Board.

If Respondent is determined to be unable to practice safely as a registered nurse, the licensed physician, nurse practitioner, or physician assistant making this determination shall immediately notify the Board and Respondent by telephone, and the Board shall request that the Attorney General's office prepare an accusation or petition to revoke probation. Respondent shall immediately cease practice and shall not resume practice until notified by the Board. During this period of suspension, Respondent shall not engage in any practice for which a license issued by the Board is required until the Board has notified Respondent that a medical determination permits Respondent to resume practice. This period of suspension will not apply to the reduction of this probationary time period.

If Respondent fails to have the above assessment submitted to the Board within the 45-day requirement, Respondent shall immediately cease practice and shall not resume practice until notified by the Board. This period of suspension will not apply to the reduction of this probationary time period. The Board may waive or postpone this suspension only if significant, documented evidence of mitigation is provided. Such evidence must establish good faith efforts by Respondent to obtain the assessment, and a specific date for compliance must be provided. Only one such waiver or extension may be permitted.

15. **Participate in Treatment/Rehabilitation Program for Chemical Dependence.** Respondent, at her expense, shall successfully complete during the probationary period or shall have successfully completed prior to commencement of probation a Board-approved treatment/rehabilitation program of at least six months duration. As required, reports shall be submitted by the program on forms provided by the Board. If Respondent has not completed a Board-approved treatment/rehabilitation program prior to commencement of probation, Respondent, within 45 days from the effective date of the decision, shall be enrolled in a program. If a program is not successfully completed within the first nine months of probation, the Board shall consider Respondent in violation of probation.

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1 Based on Board recommendation, each week Respondent shall be required to attend at least
2 one, but no more than five 12-step recovery meetings or equivalent (e.g., Narcotics Anonymous,
3 Alcoholics Anonymous, etc.) and a nurse support group as approved and directed by the Board.
4 If a nurse support group is not available, an additional 12-step meeting or equivalent shall be
5 added. Respondent shall submit dated and signed documentation confirming such attendance to
6 the Board during the entire period of probation. Respondent shall continue with the recovery plan
7 recommended by the treatment/rehabilitation program or a licensed mental health examiner
8 and/or other ongoing recovery groups.

9 16. **Abstain from Use of Psychotropic (Mood-Altering) Drugs.** Respondent
10 shall completely abstain from the possession, injection or consumption by any route of all
11 controlled substances and all psychotropic (mood altering) drugs, including alcohol, except when
12 the same are ordered by a health care professional legally authorized to do so as part of
13 documented medical treatment. Respondent shall have sent to the Board, in writing and within
14 fourteen (14) days, by the prescribing health professional, a report identifying the medication,
15 dosage, the date the medication was prescribed, the Respondent's prognosis, the date the
16 medication will no longer be required, and the effect on the recovery plan, if appropriate.

17 Respondent shall identify for the Board a single physician, nurse practitioner or physician
18 assistant who shall be aware of Respondent's history of substance abuse and will coordinate and
19 monitor any prescriptions for Respondent for dangerous drugs, controlled substances or mood-
20 altering drugs. The coordinating physician, nurse practitioner, or physician assistant shall report
21 to the Board on a quarterly basis Respondent's compliance with this condition. If any substances
22 considered addictive have been prescribed, the report shall identify a program for the time limited
23 use of any such substances.

24 The Board may require the single coordinating physician, nurse practitioner, or physician
25 assistant to be a specialist in addictive medicine, or to consult with a specialist in addictive
26 medicine.

27 17. **Submit to Tests and Samples.** Respondent, at her expense, shall
28 participate in a random, biological fluid testing or a drug screening program which the Board

1 approves. The length of time and frequency will be subject to approval by the Board.

2 Respondent is responsible for keeping the Board informed of Respondent's current telephone
3 number at all times. Respondent shall also ensure that messages may be left at the telephone
4 number when she is not available and ensure that reports are submitted directly by the testing
5 agency to the Board, as directed. Any confirmed positive finding shall be reported immediately
6 to the Board by the program and Respondent shall be considered in violation of probation.

7 In addition, Respondent, at any time during the period of probation, shall fully cooperate
8 with the Board or any of its representatives, and shall, when requested, submit to such tests and
9 samples as the Board or its representatives may require for the detection of alcohol, narcotics,
10 hypnotics, dangerous drugs, or other controlled substances.

11 If Respondent has a positive drug screen for any substance not legally authorized and not
12 reported to the coordinating physician, nurse practitioner, or physician assistant, and the Board
13 files a petition to revoke probation or an accusation, the Board may suspend Respondent from
14 practice pending the final decision on the petition to revoke probation or the accusation. This
15 period of suspension will not apply to the reduction of this probationary time period.

16 If Respondent fails to participate in a random, biological fluid testing or drug screening
17 program within the specified time frame, Respondent shall immediately cease practice and shall
18 not resume practice until notified by the Board. After taking into account documented evidence
19 of mitigation, if the Board files a petition to revoke probation or an accusation, the Board may
20 suspend Respondent from practice pending the final decision on the petition to revoke probation
21 or the accusation. This period of suspension will not apply to the reduction of this probationary
22 time period.

23 18. **Mental Health Examination.** Respondent shall, within 45 days of the
24 effective date of this Decision, have a mental health examination including psychological testing
25 as appropriate to determine her capability to perform the duties of a registered nurse. The
26 examination will be performed by a psychiatrist, psychologist or other licensed mental health
27 practitioner approved by the Board. The examining mental health practitioner will submit a
28 written report of that assessment and recommendations to the Board. All costs are the

1 responsibility of Respondent. Recommendations for treatment, therapy or counseling made as a
2 result of the mental health examination will be instituted and followed by Respondent.

3 If Respondent is determined to be unable to practice safely as a registered nurse, the
4 licensed mental health care practitioner making this determination shall immediately notify the
5 Board and Respondent by telephone, and the Board shall request that the Attorney General's
6 office prepare an accusation or petition to revoke probation. Respondent shall immediately cease
7 practice and may not resume practice until notified by the Board. During this period of
8 suspension, Respondent shall not engage in any practice for which a license issued by the Board
9 is required, until the Board has notified Respondent that a mental health determination permits
10 Respondent to resume practice. This period of suspension will not apply to the reduction of this
11 probationary time period.

12 If Respondent fails to have the above assessment submitted to the Board within the 45-day
13 requirement, Respondent shall immediately cease practice and shall not resume practice until
14 notified by the Board. This period of suspension will not apply to the reduction of this
15 probationary time period. The Board may waive or postpone this suspension only if significant,
16 documented evidence of mitigation is provided. Such evidence must establish good faith efforts
17 by Respondent to obtain the assessment, and a specific date for compliance must be provided.
18 Only one such waiver or extension may be permitted.

19 **19. Therapy or Counseling Program.** Respondent, at her expense, shall
20 participate in an on-going counseling program until such time as the Board releases her from this
21 requirement and only upon the recommendation of the counselor. Written progress reports from
22 the counselor will be required at various intervals.

23 ///

24 ACCEPTANCE

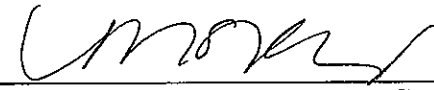
25 I have carefully read the above Stipulated Settlement and Disciplinary Order and have fully
26 discussed it with my attorney, Michael J. Khouri, Esq.. I understand the stipulation and the effect
27 it will have on my Registered Nurse License. I enter into this Stipulated Settlement and

28 ///

Disciplinary Order voluntarily, knowingly, and intelligently, and agree to be bound by the
Decision and Order of the Board of Registered Nursing.

DATED:

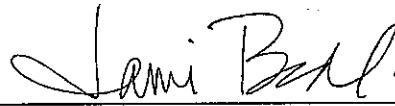
2/25/10


MARY SUNYOUNG CHUNG
Respondent

I have read and fully discussed with Respondent Mary Sunyoung Chung the terms and
conditions and other matters contained in the above Stipulated Settlement and Disciplinary Order.
I approve its form and content.

DATED:

02/25/2010


For, LAW OFFICES OF MICHAEL J. KHOURI
Attorney for Respondent

ENDORSEMENT

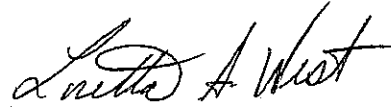
The foregoing Stipulated Settlement and Disciplinary Order is hereby respectfully
submitted for consideration by the Board of Registered Nursing of the Department of Consumer
Affairs.

Dated:

3/2/2010

Respectfully Submitted,

EDMUND G. BROWN JR.
Attorney General of California
LINDA K. SCHNEIDER
Supervising Deputy Attorney General


LORETTA A. WEST
Deputy Attorney General
Attorneys for Complainant

SD2009804348

Exhibit A

Accusation No. 2010 57

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2 LINDA K. SCHNEIDER
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Attorneys for Complainant

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9 **BEFORE THE**
BOARD OF REGISTERED NURSING
DEPARTMENT OF CONSUMER AFFAIRS
10 **STATE OF CALIFORNIA**
11

12 In the Matter of the Accusation Against:

Case No. 2010-57

13 **MARY SUNYOUNG CHUNG**
14 67 Costero Aisle
Irvine, CA 92614
15 Registered Nurse License No. 721908

ACCUSATION

16 Respondent.
17

18 Complainant alleges:

19 **PARTIES**

20 1. Louise R. Bailey, M.Ed., RN, (Complainant) brings this Accusation solely in her
21 official capacity as the Interim Executive Officer of the Board of Registered Nursing, Department
22 of Consumer Affairs.

23 2. On or about March 3, 2008, the Board of Registered Nursing issued Registered Nurse
24 License Number 721908 to Mary Sunyoung Chung (Respondent). The Registered Nurse license
25 was in full force and effect at all times relevant to the charges brought herein and will expire on
26 May 31, 2011, unless renewed.

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2 JURISDICTION

3 3. This Accusation is brought before the Board of Registered Nursing (Board),
4 Department of Consumer Affairs, under the authority of the following laws. All section
5 references are to the Business and Professions Code (Code) unless otherwise indicated.

6 4. Section 2750 of the Business and Professions Code provides, in pertinent part, that
7 the Board may discipline any licensee, including a licensee holding a temporary or an inactive
8 license, for any reason provided in the Nursing Practice Act (commencing with section 2750).

9 5. Section 2764 of the Code provides, in pertinent part, that the expiration of a license
10 shall not deprive the Board of jurisdiction to proceed with a disciplinary proceeding against the
11 licensee or to render a decision imposing discipline on the license. Section 2811(b) of the Code
12 provides that the Board may renew an expired license at any time within eight years after the
13 expiration.

14 STATUTES

15 6. Section 2761 of the Code states:

16 "The board may take disciplinary action against a certified or licensed nurse or deny an
17 application for a certificate or license for any of the following:

18 "(a) Unprofessional conduct, which includes, but is not limited to, the following:

19 "....

20 7. Section 2762 of the Code states:

21 "In addition to other acts constituting unprofessional conduct within the meaning of this
22 chapter [the Nursing Practice Act], it is unprofessional conduct for a person licensed under this
23 chapter to do any of the following:

24 "(a) Obtain or possess in violation of law, or prescribe, or except as directed by a licensed
25 physician and surgeon, dentist, or podiatrist administer to himself or herself, or furnish or
26 administer to another, any controlled substance as defined in Division 10 (commencing with
27 Section 11000) of the Health and Safety Code or any dangerous drug or dangerous device as
28 defined in Section 4022.

1 "...."

2 8. Section 492 of the Code states:

3 "Notwithstanding any other provision of law, successful completion of any diversion
4 program under the Penal Code, or successful completion of an alcohol and drug problem
5 assessment program under Article 5 (commencing with section 23249.50) of Chapter 12 of
6 Division 11 of the Vehicle Code, shall not prohibit any agency established under Division 2
7 ([Healing Arts] commencing with Section 500) of this code, or any initiative act referred to in that
8 division, from taking disciplinary action against a licensee or from denying a license for
9 professional misconduct, notwithstanding that evidence of that misconduct may be recorded in a
10 record pertaining to an arrest.

11 "This section shall not be construed to apply to any drug diversion program operated by any
12 agency established under Division 2 (commencing with Section 500) of this code, or any
13 initiative act referred to in that division."

14 **COST RECOVERY**

15 9. Section 125.3 of the Code provides, in pertinent part, that the Board may request the
16 administrative law judge to direct a licensee found to have committed a violation or violations of
17 the licensing act to pay a sum not to exceed the reasonable costs of the investigation and
18 enforcement of the case.

19 **CONTROLLED SUBSTANCES**

20 10. Hydrocodone with acetaminophen, also known by the brand name "Vicodin," is a
21 narcotic Schedule III controlled substance pursuant to Health and Safety Code section 11056(e)
22 (4), and under Business and Professions Code section 4022, is a dangerous drug.

23 **FACTS**

24 11. On or about May 1, 2008, a Garden Grove Police Officer made contact
25 with Respondent, her husband and her friend in response to allegations they were involved in a
26 disturbance at a local restaurant. The officer discovered three pills that he recognized as the
27 controlled substance Vicodin, inside Respondent's purse, pursuant to a consensual vehicle search.
28

1 Respondent admitted that she did not have a prescription for the Vicodin. Respondent was
2 arrested and transported to the Garden Grove Police Department.

3 12. As a result of the arrest, on or about May 14, 2008, a complaint was filed in the
4 matter of *The People of the State of California v. Mary Sun-Young*, in Orange County Superior
5 Court (West Justice Center), case number 08MW05117, charging Respondent with the violation
6 of Business and Professions Code section 4060 (unlawful possession of controlled substance
7 without prescription).

8 13. On or about August 19, 2008, Respondent entered a plea of guilty to violating
9 Business and Professions Code section 4060 (unlawful possession of controlled substance
10 without prescription).

11 14. On or about August 19, 2008, the court ordered that the entry of judgment against
12 Respondent be deferred pursuant to Penal Code section 1000 (PC 1000), which may result in the
13 dismissal of all criminal charges against Respondent upon her successful completion of the court-
14 ordered PC 1000 drug program. The court ordered Respondent to provide proof of completion at
15 her next scheduled court appearance on February 22, 2010.

16 **FIRST CAUSE FOR DISCIPLINE**

17 **(Unprofessional Conduct – Unlawful Possession of Controlled Substances)**

18 15. Respondent is subject to disciplinary action under Code sections 2761 (a) and
19 2762 (a) in that she unlawfully possessed the controlled substance, Vicodin, without a valid
20 prescription, an act constituting unprofessional conduct.

21 **DISCIPLINE CONSIDERATIONS**

22 16. Complainant alleges Respondent's previous criminal convictions, as described in
23 detail below, that should be considered when imposing discipline as a result of the cause for
24 discipline set forth above.

25 **FIRST DISCIPLINARY CONSIDERATION**

26 **(September 21, 2001-Possession of False Identification to Obtain Alcohol)**

27 17. On or August 31, 2001, Respondent possessed and presented false identification in
28 order to obtain alcohol while she was under 21 years old.

1 18. On or about September 21, 2001, a complaint was filed in the matter of *The People*
2 *of the State of California v. Mary Sun-Young*, in Orange County Superior Court, case number
3 01HM07233, charging Respondent with the violation of Business and Professions Code section
4 25661 (possession of false identification to obtain alcohol).

5 19. On or about October 3, 2001, the court ordered that the entry of judgment against
6 Respondent be deferred pursuant to Respondent's enrollment in an alcohol diversion program and
7 ordered Respondent to complete the Orange Coast College Alcohol and Drug Awareness Series,
8 which would result in the dismissal of all criminal charges against Respondent upon her
9 successful completion. On or about December 15, 2001, Respondent provided proof of
10 completion to the court. On or about December 19, 2001, the court ordered all criminal charges
11 in the matter were dismissed.

12
13 **SECOND DISCIPLINARY CONSIDERATION**
14 **(March 9, 2001-Unlawful Possession of Controlled Substance-Vicodin)**

15 20. On or about November 6, 2000, Respondent unlawfully possessed the controlled
16 substance, Vicodin, without a valid prescription.

17 21. On or about March 9, 2001, a complaint was filed in the matter of *The People*
18 *of the State of California v. Mary Sun-Young*, in Orange County Superior Court, case number
19 01WF06729, charging Respondent with the violation of Health and Safety Code section
20 11550 (a) (unlawful possession of a controlled substance). On or about April 25, 2001, a second
21 criminal count against Respondent was filed alleging violation of Business and Professions Code
22 section 4060 (possession of controlled substance without a prescription).

23 22. On or about April 25, 2001, Respondent entered a plea of guilty to violation of
24 Business and Professions Code section 4060 (possession of controlled substance without a
25 prescription).

26 23. On or about April 25, 2001, the court ordered that the entry of judgment against
27 Respondent be deferred pursuant to Penal Code 1000 (PC 1000), which would result in the
28

1 dismissal of all criminal charges against Respondent upon her successful completion of the court-
2 ordered drug diversion program.

3 24. On or about October 25, 2002, Respondent provided proof of completion to the court.
4 On or about October 25, 2002, the court ordered all criminal charges against Respondent in the
5 matter dismissed.

6
7 **THIRD DISCIPLINARY CONSIDERATION**
8 **(May 7, 1999 Conviction for Driving While License Suspended in April 1999)**

9 25. On or about April 2, 1999, Respondent unlawfully drove her car while her driving
10 privileges were suspended. Respondent's driving privileges were previously suspended because
11 she refused to allow a chemical test of her blood or breathe at the request of a police officer who
12 suspected she was driving under the influence of drugs or alcohol.

13 26. On or about April 28, 1999, a complaint was filed in the matter of *The People of the*
14 *State of California v. Mary Sun-Young*, in Orange County Superior Court, case number
15 99HM02289, charging Respondent with the violation of Vehicle Code section 14601.5 (a)
(driving while license suspended).

16 27. On or about May 7, 1999, Respondent was convicted on her plea of guilty to violation
17 of Vehicle Code section 14601.5 (a) (driving while license suspended).

18 28. On or about May 7, 1999, the court sentenced Respondent to complete 3 years
19 informal probation, ordered her to complete 10 days community service or serve 10 days in
20 County Jail, and ordered Respondent to pay fines.

21 29. On or about June 27, 2000, the court ordered Respondent to serve 15 days in the
22 Orange County Jail, due to Respondent's violation of the terms of her probation.

23 30. On or about October 26, 2005, the court granted Respondent's petition for relief
24 pursuant to Penal Code section 1203.4. The court ordered Respondent's guilty plea set aside and
25 plea of not guilty entered, and dismissed all criminal charges against Respondent in the matter.

26
27 **FOURTH DISCIPLINARY CONSIDERATION**
28 **(April 8, 1999, Conviction for Driving Under Influence of Alcohol While Under 21)**

1 31. On or about February 4, 1999, Respondent drove her car while her blood-alcohol
2 level was .05 or more.

3 32. On or about February 9, 1999, a criminal complaint was filed in the matter of *The*
4 *People of the State of California v. Mary Sun-Young*, in Orange County Superior Court, case
5 number JR51291J, charging Respondent with the violation of Vehicle Code section 23140 (a)
6 (driving with blood-alcohol level of .05 or more, while under 21 years old).

7 33. On or about April 8, 1999, Respondent was convicted on her plea of guilty for
8 violation of Vehicle Code section 23140 (a) (driving with blood-alcohol level of .05 or more,
9 while under 21 years old).

10 34. On or about April 8, 1999, the court sentenced Respondent to complete 30 Alcohol
11 Anonymous meetings, perform 25 hours of community service, and pay fines.

12 PRAYER

13 WHEREFORE, Complainant requests that a hearing be held on the matters herein alleged,
14 and that following the hearing, the Board of Registered Nursing issue a decision:

15 1. Revoking or suspending Registered Nurse License Number 721908, issued to Mary
16 Sunyoung Chung Mary Sunyoung Chung.

17 2. Ordering Mary Sunyoung Chung to pay the Board of Registered Nursing the
18 reasonable costs of the investigation and enforcement of this case, pursuant to Business and
19 Professions Code section 125.3;

20 3. Taking such other and further action as deemed necessary and proper.

21 DATED: 7/31/09

22 *Louise R. Bailey*
23 Louise R. Bailey, M.Ed., RN
24 Interim Executive Officer
25 Board of Registered Nursing
26 Department of Consumer Affairs
27 State of California
28 Complainant